# REMARKS

**Status of this application**

In the Office Action mailed on August 26, 2004, the Examiner rejected claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by Facciani et al. Patent 5,999,917 (hereinafter "Facciani").

This response amends claim 1 to correct the antecedent basis for an internal reference, and adds new claims 3 – 22 to complete the scope of applicant's protection. Reconsideration of the rejection of claims 1 and 2, and allowance of newly added claims 3-22 is requested for the reasons set forth below.

**The §102(b) Rejection of Claims 1 and 2**

Applicants' invention as set forth in claim 1 and 2 is a novel method of issuing and distributing a security that entitles its holder to receive either a specified lump sum payment or, in the alternative at the option of the holder, to instead receive a sequence of predefined annuity payments at defined times.

Facciani fails to disclose or suggest creating or distributing such a security. Instead, Facciani teaches a system which calculates, on a daily basis, both the assets and the liabilities of a Non-Qualified Deferred Compensation (NQDC) plan, provides information to plan sponsors and asset managers if changes in asset allocation are required, and projects assets and liabilities into the future. While the NQDC plans with which the Facciani reporting system deals provide a lump sum payment to the investor at maturity as stated at column 1, line 51, the investment plans taught by Facciani do not give the holder the right to receive a sequence of predefined annuity payments at defined times as set forth in rejected claims 1 and 2 and in all of the newly added claims.

The only reference to "annuities" in Facciani relates to the possibility that the NQDC may purchase annuities from an annuity carrier (e.g. column 1, line 14) and includes a modem 8 for obtaining data about purchased assets from insurance and annuity carriers. In short, while the NQDC plans which Facciani helps manage may include purchased annuities as part of their asset portfolio, there is no suggestion anywhere that these plans provide the investor with an option to obtain an annuity of any kind, let alone the right to receive a sequence of annuity payments, the

amounts and payment dates of which are specified in the security.

All of the newly added claims 3-22, like rejected claims 1 and 2, clearly set forth a method for providing an investor with the option to receive either a lump sum payment or, at the option of the investor, to instead receive annuity payments of specified amounts and at specified times. Under the NQDC plans described by Facciani, while the investor may be promised a specified annual return on his or her investment prior to maturity (see column 1, line 48) which is realized in the lump sum payment, there is no disclosure or suggestion that the investor would also have the right to instead receive a specified annuity as claimed.

Reconsideration of the rejection of claims 1 and 2 as being anticipated by Facciani, and allowance of claims 1-22 as now presented is accordingly requested.

Respectfully submitted,

Dated: September 13, 2004

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**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this *Amendment* is being transmitted by facsimile to the central facsimile number of the U.S. Patent and Trademark Office, (703) 872-9306, on September 13, 2004.

Dated: September 13, 2004

Signature

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